IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21634 of 2004

Between:

M/s. Gurudeep Filling Station, I.B.P. Dealer, NTPC, Ramagundam,

Karimnagar District.Rep. by its Managing Partner Manchikatla Venkata Swamy, S/o. Late Kistaiah, Aged 44 Years, Occ: Business,
R/o. 19-8-291, Lakshmi Nagar, Godavarikhani, Karimnagar District.

..... PETITIONER

AND

1 The District Collector (CS) Karimanagar, Karimnagar District.
2 The Mandal Revenue Officer, Ramagundam, Karimnagar District.
3 The Deputy Tahsildar (CS), Peddapally, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more in the nature of Writ of Mandamus directing the respondents to remove the stocks i.e. High Speed diesel from the Tanks1 &2 of Petitioner filling Station which was seized by the respondents 2 and 3 herein on 15-11-2004 alleging contravention of Clause 25 of A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 and Clause 5 of MS & HSD (Prevention of Malpractices in Supply and distribution) Order, 1990 and to allow the petitioner filling station to conduct the business in respect of HSD (High Speed Diesel) as long as the licence is subsisting i.e. neither suspended nor cancelled by duly declaring the action of the respondent No.1 in not disposing the application dt. 17-11-2004 submitted by the petitioner filling station for release of the stocks seized and also for permitting them to conduct sale of HSD through retail outlet of the petitioner filling station pending

disposal of 6-A enquiry as illegal, arbitrary and contrary to the provisions of A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 and Motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order,1990 and also the provisions of E.C.Act, 1955.

Counsel for the Petitioner:MR.V.RAVI KIRAN RAO

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner is a petroleum outlet and a dealer of I.B.P. The outlet established by the petitioner at N.T.P.C., Ramagundam was inspected by respondents 2 and 3 on 15.11.2004. On noticing that High Sped Diesel being sold by the petitioner was adulterated, they have drawn samples and sealed the outlet together with the underground tank. It is the case of the petitioner that the traces of water in the diesel were on account of condensation of moisture in the underground tank and, in fact, the petroleum company itself has addressed a letter dated 16.11.2004 to this effect. The grievance of the petitioner is that though the dealership and licence are intact, it is handicapped from conducting business on account of the seals put to the outlet and non-removal of the stock from the underground tank.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The questions as to whether the stock held by the petitioner was adulterated or whether there is any variation as to stock, need to be decided in the proceedings under Section 6-A of the Essential Commodities Act, 1955, which were already initiated before the first respondent. It is not in dispute that the dealership as well as the licence issued to the petitioner are still intact and they enable it to conduct the business. The purpose of sealing the outlet as well as the underground tank is to ensure that the stock in question is not tampered with. However, as long as the seals are there, the petitioner would be handicapped from conducting the business. Respondents 2 and 3 can arrange to remove the stock seized by them and store it at a different place. Such a course of action would keep the seized stock intact, and at the same time

enable the petitioner to conduct the business in terms of the dealership as well as the licence.

Hence, the writ petition is disposed of directing respondents 2 and 3 to remove the seals put to the outlet as well as the ground tank, remove the seized stock and to store it at a different place within three days from the date of receipt of a copy of this order. In case, the respondents find it difficult to store such a huge quantity, it shall be open to them to permit the petitioner to use it on furnishing bank guarantee for the stock, duly informing the oil company to ensure that no adulterated stock is permitted to be sold. No order as to costs.

25.11.2004

Note:

Issue CC tomorrow.

(BO)

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To

1 The District Collector (CS) Karimanagar, Karimnagar District.
2 The Mandal Revenue Officer, Ramagundam, Karimnagar District.
3 The Deputy Tahsildar (CS), Peddapally, Karimnagar District.

4 Two CCs. to the Govt,. Pleader for Civil Supplies, High Court of

A.P., Hyderabad (OUT)

5 Two CD copies.